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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,066	08/27/2003	Hakjin Kim	1683.016	4646

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EXAMINER

THANH, QUANG D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,066

Applicant(s)

KIM, HAKJIN

Examiner

Quang D. Thanh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449, or PTO/SB/08)
- Paper No(s)/Mail Date 8/27/03, 10/21/03, 10/11/04

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4, 6-8, 18, 21 and 23-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Park (6,643,551).

3. Re claims 1, 4, 6-8, 21 and 23-24, Park discloses a chair massager system 8 (fig. 9) comprising: a base 81 (fig. 9); a back support 83 to place a user's back and neck thereon when the user is seated the base, wherein the back support has a cover, first and second ends (best seen in fig. 9), wherein the first end is fixed to the base of the chair (fig. 9); a rider 3/62 making a lengthwise reciprocal movement between the first and second ends of the back support (fig. 9); a lifter 63 liftedly engaged to the rider 3 (fig. 6, col. 4, lines 15-19) so that the lifter makes a forward reciprocal movement perpendicular to the lengthwise reciprocal movement of the rider (fig. 9); and massage bumps 32 (fig. 5) veiled by the cover and attached atop lifter to massage along the user's back and neck in accordance with the relative movements of the rider and lifter (fig. 9); (claims 4 and 21) wherein the massage bumps 32 are partitioned to first and second pairs, wherein said each pair bumps are aligned parallel to the direction of the rider reciprocation (best seen figs. 5 and 8); (claims 6-8 and 23-24) wherein the massage bumps each include a

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heating lamp 33 generating heat and infrared rays (col. 3, lines 26-29); wherein at least one of the massage bumps fixed to the lifter 63 (col. 4, lines 15-19) and shaped in hemisphere (fig. 5).

4. Re claim 18, Park also discloses a rider making a lengthwise reciprocal movement between the support, first and second ends of the back (fig. 9) , wherein the rider 3/63 has at least one nut 664 fixed thereto (fig. 5); a threaded shaft 662 geared through the nut 664 (fig. 5) and rotatably engaged at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider.

5. Claims 1 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Jikiba et al. (6,629,939).

6. Re claim 1, Jikiba discloses a chair massager system 10 (fig. 1) comprising: a base 12; a back support 13 to place a user's back and neck thereon when the user is seated the base, wherein the back support has a cover, first and second ends (fig. 1), wherein the first end is fixed to the base of the chair (fig. 1); a rider 30 (figs. 1-2) making a lengthwise reciprocal movement between the first and second ends of the back support (fig. 1); a lifter 60 liftedly engaged to the rider so that the lifter makes a forward reciprocal movement perpendicular (vertically striking action, col. 4, lines 56-59 or forward and back as disclosed in abstract) to the lengthwise reciprocal movement of the rider; and massage bumps 31 veiled by the cover and attached atop lifter (fig. 2) to massage along the user's back and neck in accordance with the relative movements of the rider and lifter.

7. Re claims 18, Jikiba discloses a rider making a lengthwise reciprocal movement between the support, first and second ends of the back, wherein the rider has at least one nut 35 (fig. 1-2)

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fixed thereto; a threaded shaft 22 geared through the nut 35 and rotatably engaged at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider (fig. 1, col. 4, lines 8-28).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 9-10, 13-17, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Lee (6,591,141).

10. Re claims 5, 9-10, 14 and 22, Park discloses the claimed invention having all the features including guide rails 665 (fig. 5) provided substantially parallel between the first and second ends of the back support; guide rollers 666 attached to the rider, wherein the guide rollers are rollably in the guide rails facilitate the lengthwise reciprocation of the rider (fig. 5); except for a pair of pulleys linked by a rope and respectively mounted in the first and second ends of the back support, wherein a predetermined portion of the rope is fixedly attached to the rider so that the pulley rotation enables the rider to generate the lengthwise reciprocal movement; and first and second bump holders propping and maintaining the first and second pair bumps, wherein the first and second bump holders are tapered toward each lower end; a first engagement member to rockingly engage the lower ends of the bump holders to the top portion of the lifter; and a second engagement member to rollingly engage the massage bumps. However, Lee discloses a

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conveying means comprising a pair of pulleys 245 linked by a rope and respectively mounted in the first and second ends of the support, wherein a predetermined portion of the rope is fixedly attached to the rider so that the rotation of the pulleys enables the rider to reciprocate along the support (fig. 7), and a roller-type massager comprising first and second bump holders 130 propping and maintaining the first and second pair bumps 140 (fig. 4A), wherein the first and second bump holders are tapered toward each lower end; a first engagement member 134 to rockingly engage the lower ends of the bump holders to the top portion of the lifter; and a second engagement member 148 to rollingly engage the massage bumps (figs. 4A). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Park's massager system, to include a conveying means having all the elements discussed above and a roller-type massager having all the elements discussed above, as suggested and taught by Lee, for the purpose of providing an conveying means to effectively reciprocate the massager bumps along the back support of the chair and a suitable roller-type massager in order to enhance the effect of the hot compress and acupressure imposed on a user (col. 3, lines 10-15).

11. Re claims 13, 15-17, Park also discloses the massage bumps 32 are partitioned to first and second pairs, wherein said each pair bumps are aligned parallel to the direction of the rider reciprocation (best seen figs. 5 and 8); wherein the massage bumps each include a heating lamp 33 generating heat and infrared rays (col. 3, lines 26-29); wherein at least one of the massage bumps fixed to the lifter 63 (col. 4, lines 15-19) and shaped in hemisphere (fig. 5).

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12. Claims 3, 12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Lim (Pub. No. US 2003/0018284 A1).

13. Re claims 3, 12, and 20, Park discloses the claimed invention having all the features as discussed above including a bump support 31 having a top portion and a bottom portion, wherein the massage bumps 32 are mounted on the top portion (fig. 3); except that the lifter is the X-shaped structure (fig. 3) and it does not include a gear unit having a bolt gear, an elongated nut type gear, a first gear, a second gear, a first motor for reciprocating vertically the lifter. However, Lim teaches a massager that includes a lifter 130 having various alternative lifting means such as the X-shaped structure (fig. 6) or the nut-gear type structure (fig. 3) comprising a gear unit including a bolt gear 142 downwardly extending from the bottom portion of the lifter, an elongated nut type gear 144 having a circular outer periphery, a first gear 144a incorporated on and along the circular outer periphery, and a second gear 141 engaged to the first gear and connected to a first motor 146 attached to the rider 120 (fig. 3), wherein the bolt gear is releasably engaged in the nut type gear whose bottom end is rotatably attached to and supported by the rider, whereby the second gear 141 rotation generates the first gear rotation and the subsequent rotation of the nut type gear enables the lifter to make a vertically reciprocal movement in accordance with the releasable engagement of the bolt gear and the nut type gear (p. 3, paragraphs 48- 49). Therefore, However, it would have been obvious to one of ordinary skill in the art at the time of invention was made to substitute the X-shaped lifter with a nut-gear type lifter including all the elements described above, as suggested and taught by Lim, for the purpose of providing a

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mechanism that would move the massage members vertically along with horizontal reciprocating movements, thereby providing an enhanced massaging effect in the spine therapy (p. 1, paragraph 2) since both are well known in the art as equivalent means for lifting the massaging bumps as taught by Lim.

Double Patenting

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 1,4-9, and 13-17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 19, 24-26 and 28 of U.S. Patent No. 7,018,347.

16. Re claim 1, claim 19 of U.S. Patent No. 7,018,347 anticipates all the claimed features including a base, a back support (first mat portion) has a cover (a pad), and fixed to the base (hingedly engaged to allow an angular lifting of the back support from the base frame and thus

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would be fixed to the base frame at a selected angle), a rider, massage bumps attached a top of a lifter.

17. Re claims 4-5 and 13-14, see claims 24-25 of U.S. Patent No. 7,018,347.

18. Re claims 6-8 and 15-17, see claims 26 of U.S. Patent No. 7,018,347.

19. Re claim 9, see claim 28 of U.S. Patent No. 7,018,347.

20. Claims 1-2, 4-7, 9-11, 13-16, 18-19, and 21-23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 19, 24-26 and 28 of U.S. Patent No. 7,014, 620 in view of Park.

21. Re claims 1-2 and 18-19, claim 1 of U.S. Patent No. 7,014, 620 discloses all the claimed features; except that it is not a chair and does not have a back support fixed to the base of the chair, and at least one nut fixed to the rider and a threaded shaft geared through the nut and rotatably engaged at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider. However, Park teaches a massaging system that can be incorporated in a bed (fig. 8) or a chair (fig. 9), the massaging system including a back support having a cover, first and second ends (best seen in fig. 9), wherein the first end is fixed to the base of the chair (fig. 9) and the rider making a lengthwise reciprocal movement between the support, first and second ends of the back (fig. 9) by means of a conveying mechanism that has at least one nut 664 fixed thereto (fig. 5); a threaded shaft 662 geared through the nut 664 (fig. 5) and rotatably engaged at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider. Therefore, it would have been obvious

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to one of ordinary skill in the art at the time of invention was made to modify the system in the U.S. Patent No. 7,014, 620 reference, to incorporate the system into a reclining chair having a conveying mechanism comprising all the elements discussed above, as suggested and taught by Park, for the purpose of providing a massaging system that would allow the user to recline comfortably on a chair in order to enhance the massaging effect in the spine of the user.

22. Re claims 4 and 21, see claim 6 of U.S. Patent No. 7,014, 620 .

23. Re claims 5 and 22, see claim 9 of U.S. Patent No. 7,014, 620 .

24. Re claims 6-7 and 23, see claim 8 of U.S. Patent No. 7,014, 620 .

25. Re claims 9-11, see claim 13 of U.S. Patent No. 7,014, 620 .

26. Re claim 13, see claim 18 of U.S. Patent No. 7,014, 620 .

27. Re claim 14 , see claim 21 of U.S. Patent No. 7,014, 620 .

28. Re claims 15-16, see claim 20 of U.S. Patent No. 7,014, 620 .

29. Claims 1,3-7,9-10,12-16,18, 20-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 10, 15-18,21 and 26-28 of copending Application No. 10/249915 in view of Park. This is a provisional obviousness-type double patenting rejection.

30. Re claims 1-3, 9,12, 18 and 20, copending Application No. 10/249915 discloses in claims 10 and 21 all the features of the claimed invention except that it is not a chair and does not have a back support fixed to the base of the chair , and at least one nut fixed to the rider and a threaded shaft geared through the nut and rotatably engaged

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at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider. However, Park teaches a massaging system that can be incorporated in a bed (fig. 8) or a chair (fig. 9), the massaging system including a back support having a cover, first and second ends (best seen in fig. 9), wherein the first end is rotatably connected to the base controllably reclining format (controller means for adjusting or reclining an angle of the back 83 of the chair, col. 3, lines 40-44 and col.7, lines 1-3) and the rider making a lengthwise reciprocal movement between the support, first and second ends of the back (fig. 9) by means of a conveying mechanism that has at least one nut 664 fixed thereto (fig. 5); a threaded shaft 662 geared through the nut 664 (fig. 5) and rotatably engaged at the first and second ends of the back support to generate the lengthwise reciprocal movement of the rider. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the system in the copending Application No. 10/249915, to incorporate the system into a chair having a conveying mechanism comprising all the elements discussed above, as suggested and taught by Park, for the purpose of providing a massaging system that would allow the user to recline comfortably on a chair in order to enhance the massaging effect in the spine of the user.

31. Re claims 4-7 and 13-16, see claims 16-18 of copending Application No. 10/249915.
32. Re claim 10, see claim 15 of copending Application No. 10/249915.
33. Re claims 21-23, see claims 26-28 of copending Application No. 10/249915.

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34. Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 10/648924. This is a provisional obviousness-type double patenting rejection.

35. Claims 1-25 of copending Application No. 10/648924 discloses all the features of the claimed invention except that the back support is rotatably connected to the base in a controllably reclining format and is not fixed to the base of the chair. However, it would have been obvious to one of ordinary skill in the art to select a suitable reclining angle of the chair and thus the back support would be fixed to the base of the chair at this desirable position in order to accommodate the user's size thereby enhancing the massaging effect in the spine of the user.

Conclusion

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Quang D. Thanh', written in a cursive style.

Quang D. Thanh
Primary Patent Examiner
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